

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	
CHERYL D. STOKELY	§	
CHARLES STOKELY	§	
DEBTOR(S)	§	CASE NO. 05-37467-H5-7
	§	
DISCOVER BANK, Issuer of	§	
Discover Card	§	
PLAINTIFF(S)	§	ADVERSARY NO. 05-3620
	§	
VS.	§	
	§	
CHERYL D. STOKELY	§	
DEFENDANT(S)	§	

**MEMORANDUM OPINION
REGARDING COMPLAINT OBJECTING TO
DISCHARGEABILITY OF INDEBTEDNESS**

Before the Court is the complaint of Discover Bank objecting to the discharge of its debt under 11 U.S.C. § 523(a)(2) and (a)(14). This Court has jurisdiction pursuant to 28 U.S.C. § 157 and 28 U.S.C. § 1334. This is a core proceeding.

Debtor, Cheryl Stokely, and her husband, Charles Stokely, filed a joint Chapter 7 bankruptcy petition on May 11, 2005. Cheryl Stokely did not pay income taxes or file related returns for tax years 2001 and 2002. In 2005, the Internal Revenue Service garnished her bank account for a tax debt of approximately \$16,000. After the IRS began its enforcement procedures, debtor filed her overdue tax returns. Debtor paid a portion of her overdue taxes with a cash advance from her Discover Card on April 30, 2005, in the amount of \$6,000. During April 2005, debtor's husband, who had been unemployed for some time, found a job, but he did not receive his first paycheck until

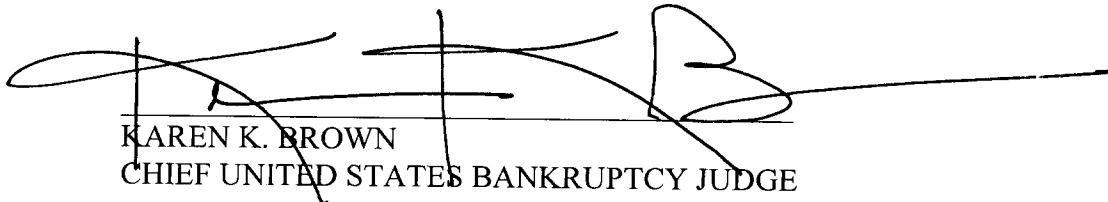
May 2005. During Mr. Stokely's unemployment, the couple made payments on their mortgage and car, but they did not have medical insurance. Debtor's husband is 56 years old and debtor is 50 years old. Debtor and her husband have a retirement fund of \$12,000.

Discover seeks judgment that debtor's debt is non-dischargeable under 11 U.S.C. § 523(a)(2) and § 523(a)(14). Bankruptcy Code § 523(a)(14) provides that a chapter 7 discharge does not discharge a debt incurred to pay a tax to the United States that would be non-dischargeable under § 523 (a)(1). Under § 523 (a)(1), a debt for a tax for which a return was filed late, but within two years before the date of the filing of the bankruptcy petition, is not discharged. The Court finds that debtor's debt to Discover in the amount of \$6,000 is not discharged under 11 U.S.C. § 523(a)(14). As this resolution disposes of the case, the Court does not reach the dischargeability of the debt under 11 U.S.C. § 523(a)(2).

Based on the foregoing, it is

ORDERED that the debt of Cheryl Stokely in the amount of \$6,000.00 owed to Discover Bank is not discharged pursuant to 11 U.S.C. § 523(a)(14).

Signed this 30 day of May, 2006 at Houston, Texas.



KAREN K. BROWN
CHIEF UNITED STATES BANKRUPTCY JUDGE